

1		BEFORE THE	
2		ILLINOIS COMMERCE COMMISSION	
3	IN THE MATTER OF:	)	
4	ILLINOIS BELL TELEPHONE COMPANY	)	
5	vs.	)	
6	1-800-RECONEX, INC. d/b/a USTel	)	
7	ABOVENET COMMUNICATIONS, INC.;	)	
8	ACCESS ONE, INC.; ACCESS2GO,	)	
9	INC.; ACCUTEL OF TEXAS, INC.	)	
10	d/b/a 1-800-4-A-PHONE; ACN	)	
11	COMMUNICATION SERVICES, INC.;	)	
12	ADAMS TELSISTEMS, INC.;	)	
13	ALLEGIANCE TELECOM OF ILLINOIS,	)	
14	INC.; ALLURE COMMUNICATIONS, LLC	)	
15	AMERICAN FARM BUREAU, INC. d/b/a	)	
16	FARM BUREAU CONNECTION SM; THE	)	
17	AMERICAN FIBER NETWORK, INC.	)	
18	d/b/a 'AFN'; AMERITEL ILLINOIS,	)	
19	INC.; ASCENDTEL, LLC; AT&T	)	
20	COMMUNICATIONS OF ILLINOIS,	)	
21	INC.; B&S TELECOM, INC. d/b/a	)	
22	QUICK CONNECT USA d/b/a	)	
	CONSUMERS TELEPHONE COMPANY; BAK	)	
	COMMUNICATIONS, LLC; BITWISE	)	
	COMMUNICATIONS, INC.; BUDGET	)	
	PHONE, INC.; BULLSEYE TELECOM,	)	
	INC.; CAT COMMUNICATIONS	)	
	INTERNATIONAL, INC.; CBeyond	)	
	COMMUNICATIONS, LLC; CENTURYTEL	)	
	FIBER COMPANY II, LLC, d/b/a	)	
	LIGHTCORE CENTURYTEL COMPANY;	)	
	CIMCO COMMUNICATIONS, INC.;	)	
	CINERGY COMMUNICATIONS COMPANY;	)	
	CITYNET ILLINOIS, LLC; DELTA	)	
	COMMUNICATIONS, LLC, d/b/a	)	
	CLEARWAVE COMMUNICATIONS; CMC	)	
	TELECOM, INC.; CORDIA	)	
	COMMUNICATIONS CORP.; DLS	)	
	COMMUNICATION SERVICES, INC.;	)	

1     dPI-TELECONNECT, LLC; DSLNET     )  
       COMMUNICATIONS, LLC; EASTON     )  
2     TELECOM SERVICE, LLC; EGIX     )  
       NETWORK SERVICES, INC.;     )  
3     EQUIVOICE, LLC; ERNEST     )  
       COMMUNICATIONS, INC.; ESSEX     )  
4     TELCOM, INC.; EXCEL     )  
       TELECOMMUNICATIONS, INC.; FIRST     )  
5     COMMUNICATIONS, LLC; FORTE     )  
       COMMUNICATIONS, INC.; GLOBAL     )  
6     CONNECTION INC. OF AMERICA;     )  
       GLOBAL CROSSING LOCAL SERVICES,     )  
7     INC.; GLOBAL NAPs ILLINOIS,     )  
       INC.; GLOBAL TELDATA, INC.;     )  
8     GLOBALCOM, INC.; GRANITE     )  
       TELECOMMUNICATIONS, LLC; GRID 4     )  
9     COMMUNICATIONS, INC.; HOME     )  
       TELENETWORKS, INC.; ICG TELECOM     )  
10    GROUP, INC.; ILLICOM     )  
       TELECOMMUNICATIONS, INC.;     )  
11    INTEGRATED COMMUNICATIONS     )  
       CONSULTANTS, INC.; INTRADO,     )  
12    INC.; KBS COMPUTER SERVICES,     )  
       INC.; KENTUCKY DATA LINK, INC.     )  
13    d/b/a CINERGY NETWORKS; KING     )  
       CITY TELEPHONE, LLC, d/b/a     )  
14    SOUTHERN ILLINOIS     )  
       COMMUNICATIONS; KMC TELECOM V,     )  
15    INC.; LONG DISTANCE OF MICHIGAN,     )  
       INC. d/b/a LDMI     )  
16    TELECOMMUNICATIONS; LIGHTSPEED     )  
       TELECOM, LLC; LINE 1     )  
17    COMMUNICATIONS, LLC, d/b/a     )  
       DIRECT LINE COMMUNICATIONS;     )  
18    LOOKING GLASS NETWORKS, INC.;     )  
       MADISON RIVER COMMUNICATIONS,     )  
19    LLC, d/b/a GALLATIN RIVER     )  
       INTEGRATED COMMUNICATIONS     )  
20    SOLUTIONS; MCLEODUSA     )  
       TELECOMMUNICATIONS SERVICES,     )  
21    INC; MIDWEST TELECOM OF AMERICA,     )  
       INC.; MIDWESTERN     )  
22    TELECOMMUNICATIONS,     )

1 INCORPORATED; MPOWER )  
COMMUNICATIONS CORP. d/b/a )  
2 MPOWER COMMUNICATIONS OF )  
ILLINOIS; MTCO COMMUNICATIONS, )  
3 INC.; NAVIGATOR )  
TELECOMMUNICATIONS, LLC; NEUTRAL )  
4 TANDEM-ILLINOIS, LLC; NEW ACCESS )  
COMMUNICATIONS, LLC; NEW EDGE )  
5 NETWORK, INC. d/b/a NEW EDGE )  
NETWORKS; NEXUS COMMUNICATIONS, )  
6 INC.; NII COMMUNICATIONS, LTD; )  
NORLIGHT TELECOMMUNICATIONS, )  
7 INC.; NORTH COUNTY )  
COMMUNICATIONS CORPORATION; NOS )  
8 COMMUNICATIONS, INC. d/b/a )  
INTERNATIONAL PLUS d/b/a 011 )  
9 COMMUNICATIONS d/b/a THE )  
INTERNET BUSINESS ASSOCIATION )  
10 d/b/a IVANTAGE NETWORK )  
SOLUTIONS; NOVACON HOLDINGS, )  
11 LLC; NOVACON, LLC; NOW )  
COMMUNICATIONS, INC. d/b/a NOW )  
12 COMMUNICATIONS OF ILLINOIS, )  
INC.; NUVOX COMMUNICATIONS OF )  
13 ILLINOIS, INC.; ONFIBER CARRIER )  
SERVICES, INC.; PACIFIC CENTREX )  
14 SERVICES, INC.; PAETEC )  
COMMUNICATIONS, INC.; PEAK )  
15 COMMUNICATIONS, INC.; )  
PERSONALOFFICE, INC.; POLTEL, )  
16 LLC; PREFERRED CARRIER SERVICES, )  
INC.; QUANTUMSHIFT )  
17 COMMUNICATIONS, INC.; QUICK-TEL )  
COMMUNICATIONS, INC.; QWEST )  
18 COMMUNICATIONS CORPORATION; )  
QWEST INTERPRISE OF AMERICA, )  
19 INC.; RCN TELECOM SERVICES OF )  
ILLINOIS, LLC; ROYAL PHONE )  
20 COMPANY, LLC; US SIGNAL COMPANY, )  
LLC, d/b/a RVP FIBER COMPANY; )  
21 SNG COMMUNICATIONS, LLC; SPRINT )  
COMMUNICATIONS COMPANY, LP. )  
22 d/b/a SPRINT COMMUNICATIONS LP; )

1 SURETEL, INC.; SWETLAND )  
INTERNET, INC.; TALK AMERICA, )  
2 INC.; TCG ILLINOIS; TCG CHICAGO; )  
TDS METROCOM, LLC; THINK 12 )  
3 CORPORATION d/b/a HELLO DEPOT; )  
TRANS NATIONAL COMMUNICATIONS )  
4 INTERNATIONAL, INC.; US XCHANGE )  
OF ILLINOIS, LLC, d/b/a CHOICE )  
5 ONE d/b/a CHOICE ONE )  
COMMUNICATIONS; VARTEC TELECOM, )  
6 INC.; WITEL COMMUNICATIONS, )  
LLC; WINSTAR COMMUNICATIONS, )  
7 LLC; XO ILLINOIS, INC.; Z-TEL )  
COMMUNICATIONS, INC. )  
8 )  
Complaint pursuant to Section )  
9 10-108 of the Illinois Public )  
Utilities Act 220 ILCS 5/10-108 )  
10 and 83 Illinois Administrative )  
Code 200.170. )

11

Chicago, Illinois  
12 June 8, 2005

13 Met pursuant to notice at 10:00 a.m.

14 BEFORE:

15 MS. EVE MORAN  
Administrative Law Judge

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22 SULLIVAN REPORTING COMPANY, by  
Jennel Hooper-Troupe, RPR, CSR

1           APPEARANCES:

2           MR. MARK ORTLIEB and  
3           MR. KARL ANDERSON  
4           225 West Randolph Street, Suite 2500  
5           Chicago, Illinois 60606  
6           appearing on behalf of SBC Illinois;

7           KELLEY, DRYE & WARREN, LLP, by  
8           MR. HENRY KELLY  
9           333 West Wacker Drive, Suite 26th Floor  
10          Chicago, Illinois 60606  
11          appearing on behalf the parties of record;

12          MR. DAVID CHORZEMPA and  
13          MS. CHERYL HAMILL  
14          222 West Adams Street, Suite 1500  
15          Chicago, Illinois 60601  
16          appearing on behalf of AT&T Communications  
17          of Illinois, Inc., TCG Illinois, TCG  
18          Chicago;

19          MR. OWEN E. MACBRIDE  
20          233 South Wacker Drive, Suite 6600  
21          Chicago, Illinois 60606  
22          appearing on behalf of McLeodUSA  
Telecommunications Services, Inc.; TDS  
Metrocom, LLC; NuVox Communications of  
Illinois, Inc.;

MS. STEFANIE GLOVER  
160 North LaSalle Street, Suite C-800  
Chicago, Illinois 60601  
appearing on behalf of the Staff of the  
Illinois Commerce Commission.

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1 JUDGE MORAN: Pursuant to the direction of the  
2 Illinois Commerce Commission, I call Docket 04-0606.  
3 This is Illinois Bell Telephone Company versus 1-800  
4 RECONEX, Inc., et al.

5 And may I have the appearances for the  
6 record, please.

7 MR. ORTLIEB: On behalf of SBC Illinois, it's  
8 Mark Ortlieb and Carl Anderson, 225 West Randolph,  
9 Suite 2500, Chicago, Illinois 60606.

10 MR. KELLY: Your Honor, Henry Kelly, Kelley,  
11 Drye & Warren, 333 West Wacker, Chicago, Illinois  
12 60606, appearing on behalf of those CLECs on whom we  
13 entered our appearance previously. I believe there  
14 are 12 CLECs, I want to say.

15 MR. CHORZEMPA: Appearing on behalf of AT&T  
16 Communications of Illinois, Inc., TCG Illinois and  
17 TCG Chicago, David Chorzempa and Cheryl Hamill, 222  
18 West Adams, Chicago, Illinois 60606.

19 MR. MACBRIDE: This is Owen MacBride, 6600  
20 Sears Tower, Chicago, Illinois 60606. I'm appearing  
21 on behalf of McLeodUSA Telecommunications Services,  
22 Inc., TDS Metrocom, LLC and NuVox Communications of

1 Illinois, Inc.

2 MR. RUDD: This is David Rudd appearing on  
3 behalf of Madison River Communication, 5025 South  
4 Second Street, Springfield, Illinois.

5 MS. GLOVER: For Staff, Stefanie Glover, 160  
6 North LaSalle Street, Suite C-800, Chicago, Illinois  
7 60601.

8 THE COURT: Are there any other appearances by  
9 telephone.

10 MR. ROWLAND: Yes. Your Honor, this is Tom  
11 Rowland. We represent a number of different CLECs on  
12 the -- our address is Rowland & Moore 200 West  
13 Superior Street, Suite 400, Chicago, Illinois 60610.

14 MR. CROCKER: And this Patrick Crocker. We  
15 also represent a number of CLECs. Our address is  
16 171 South Rose Street, Kalamazoo, Michigan 49007.

17 JUDGE MORAN: Could you please spell your last  
18 name.

19 MR. CROCKER: Crocker, C-r-o-c-k-e-r.

20 JUDGE MORAN: Okay.

21 MS. BROWN: For SBC Communications, this is  
22 Kathy Pasulka-Brown, Foley & Lardner, 321 North Clark

1 Street, Chicago, Illinois 60610.

2 MR. HUDSON: This is Paul Hudson also  
3 representing CLECs from Swidler Berlin,  
4 3000 8th Street NW, Suite 300, Washington, D.C.  
5 20007.

6 JUDGE MORAN: Could you also spell your last  
7 name.

8 MR. HUDSON: H-u-d-s-o-n.

9 JUDGE MORAN: Okay.

10 MR. FODOR: Your Honor, this is Troy Fodor  
11 appearing on behalf of AccuTel Systems, Inc., and  
12 MTCO Communications, Inc. My business address is 913  
13 South Sixth Street, Springfield, Illinois 62703.

14 JUDGE MORAN: Would you also spell your last  
15 name.

16 MR. FODOR: F-o-d-o-r.

17 JUDGE MORAN: Thank you. Are there any other  
18 appearances by telephone?

19 (No response.)

20 JUDGE MORAN: Hearing none, those are all the  
21 appearances in the case. When last we met, I believe  
22 there were a number of collaboratives to begin. Can



1 I have a report on when those collaboratives were  
2 held. Does anybody have that information?

3 MR. ORTLIEB: Your Honor, I can jump in here.  
4 I don't have the precise dates, but we did conduct a  
5 total of four collaboratives up until this point, the  
6 most recent of which was yesterday.

7 JUDGE MORAN: Okay.

8 MR. ORTLIEB: And the -- we had three  
9 collaboratives in late April and May -- and the last  
10 of those was held May 10th. We took somewhat of a  
11 hiatus in late May for the express purpose of  
12 allowing the Michigan collaboratives to complete so  
13 that we could import into Illinois the results from  
14 those Michigan collaboratives because it appeared  
15 that the same issues were being discussed in both  
16 places.

17 JUDGE MORAN: Okay.

18 MR. ORTLIEB: The -- I don't -- and now -- that  
19 statement was factual, now this next piece might be a  
20 bit contentious, but I don't believe we are completed  
21 with the collaborative process. We have proposed a  
22 few more dates, but I don't think there's -- you

1 know, we're still debating about whether we need more  
2 meetings and how many of them we may need.

3 JUDGE MORAN: Okay. All right. I know that  
4 there's another collaborative scheduled with the  
5 clerk's office for the 14th. Am I right?

6 MR. ORTLIEB: That's correct.

7 JUDGE MORAN: And that would be June 14th?

8 MR. ORTLIEB: That's right, your Honor.

9 JUDGE MORAN: Okay. Okay. Does anybody else  
10 want to be heard? I mean, how are we doing on these  
11 collaboratives?

12 MR. MACBRIDE: Well, Judge, I think in terms of  
13 future collaboratives, obviously, the one thing we  
14 can all agree on is we haven't come to an agreement  
15 yet. So, I think we're sort of at your pleasure. If  
16 you, you know, believe we should continue to have  
17 additional negotiation sessions --

18 JUDGE MORAN: I certainly do. So, the next  
19 collaborative is set on the 14th?

20 MR. ORTLIEB: That's right, next Tuesday.

21 JUDGE MORAN: And when would be the next date  
22 that you'd want to meet with me? The next time you'd

1 want a status, realistically?

2 MR. ORTLIEB: Before you we get to the status  
3 date, your Honor, can I jump in here with -- with a  
4 slightly different issue?

5 JUDGE MORAN: Sure.

6 MR. ORTLIEB: The -- I had circulated to some  
7 parties -- that were in the room at the collaborative  
8 yesterday -- a proposed schedule and then I  
9 circulated by e-mail this morning that same proposed  
10 schedule.

11 JUDGE MORAN: Okay.

12 MR. ORTLIEB: It is SBC's view that -- - that  
13 the --

14 JUDGE MORAN: Do you have a copy of this  
15 schedule?

16 MR. ORTLIEB: Yeah. I'm sorry, your Honor. If  
17 you'd -- as that reflects, we believe that we need a  
18 few more collaborative sessions.

19 JUDGE MORAN: Uh-huh.

20 MR. ORTLIEB: You know, two or three.

21 JUDGE MORAN: Okay.

22 MR. ORTLIEB: But at -- but we think it is

1 appropriate to establish a schedule right now,  
2 particularly, given that the Commission at its bench  
3 session on Thursday established a 10/21 date for an  
4 execution of these types of amendments. We believe  
5 these issues are before you in this docket. And with  
6 one or two exceptions, that all parties are before  
7 you. I understand that the parties have raised  
8 procedural questions about whether this is the right  
9 docket to resolve these issues in, but I believe  
10 those issues were addressed and resolved by your  
11 ruling on the motion to dismiss.

12           There has -- there have been discussions  
13 with the other parties on the stipulation to come up  
14 with some alternative procedure. We are not adverse  
15 to a -- an alternative procedure like an arbitration  
16 that would be consolidated with this change of law  
17 complaint in 04-0606. So, that -- that basically is  
18 the -- is the plea of SBC Illinois today as to  
19 the -- given the Commission directive as to let's set  
20 a schedule so that we can in this docket resolve the  
21 contested issues. I will say that it looked like in  
22 Michigan, the parties got down to about 29 issues and

1     that was after a lot of intense effort. I believe  
2     we'll be in that neighborhood in Illinois, probably a  
3     few more issues because of some of the unique issues  
4     we have in Illinois.

5             JUDGE MORAN: You think there will be more  
6     issues?

7             MR. ORTLIEB: Yes, I will be anticipating it.

8             JUDGE MORAN: Okay.

9             MR. MACBRIDE: Judge, can we be heard?

10            JUDGE MORAN: Sure.

11            MR. MACBRIDE: First of all, as I said, if you  
12     think it's appropriate to have more collaborative  
13     settlement negotiations, we're willing to do that.  
14     In terms of a schedule, I know, you know, it's your  
15     right to set a schedule. I think with respect to a  
16     couple things Mr. Ortlieb said -- number one, the  
17     ruling the Commission made in the 13-515 complaint  
18     cases applies only to those cases under the seven  
19     CLECs who were the complainants in those cases.  
20     That's, by no means, a general ruling that the  
21     Commission has made requiring all CLECs to enter into  
22     TRRO amendments with SBC by October 21st. So, I

1     don't think there's any basis in that Commission  
2     ruling for extending that date to this case.

3                     Further, those cases involve only the  
4     TRRO. This case -- the complaint in this case  
5     involves only the TRO. So, those are two distinct  
6     subject matters and, you know, they're easily broken  
7     in this distinct subject matter. So, while -- if you  
8     want to set the schedule for the litigation phase of  
9     this case, we're prepared to discuss and that we'd  
10    have an alternate schedule; but there's no reason  
11    that it is required to be tied to the October 21st  
12    date, first of all.

13                    And second, the litigation in this case  
14    would only be on the TRO amendment because that's all  
15    the complaint covers, not the TRRO. Now, I have one  
16    other comment, which is: I think actually at this  
17    stage, we're probably farther apart than Mr. Ortlieb  
18    thinks because the CLECs have been negotiating in  
19    good faith in a particular manner -- I don't want to  
20    get into the substance -- based on an expectation  
21    that the parties were going to enter into a  
22    stipulation Mr. Ortlieb referred to that would

1     essentially create a proceeding that would allow us  
2     to resolve all remaining disputed TRO and TRRO issues  
3     in one proceeding and without having to go  
4     through -- litigate the issues that we're going to  
5     have to litigate in this case and proceed, which is  
6     our factual defenses, as you indicated in your ruling  
7     on the motion to dismiss, as to whether SBC has, in  
8     fact, properly invoked the change of law and dispute  
9     resolution process.

10                     Yesterday at 3:30 we were advised by  
11     Mr. Ortlieb that SBC was refusing to negotiate that  
12     stipulation anymore. Now, we can't make them  
13     negotiate that, but -- I mean, we can't make any  
14     party enter into any such a stipulation; so if we  
15     have to proceed with this case, we will. My request  
16     to you is that you convene -- as you have authority  
17     to do -- a settlement conference over which you would  
18     preside for the specific purpose of seeing if the  
19     parties can complete negotiations and enter into that  
20     stipulation for what we believe would be a much more  
21     streamlined proceeding. Again, no party can be  
22     forced to do that, but I think it would be productive

1 to have a settlement conference before the judge and  
2 try and see if we can arrive at an agreement for that  
3 stipulation for what we think would be a more  
4 streamlined and comprehensive proceeding than what's  
5 going to unfold in this docket if we just proceed on  
6 the complaint.

7 JUDGE MORAN: What -- when would you envision  
8 the settlement conference be held?

9 MR. MACBRIDE: Well, soon. I think we need to  
10 have notice, but one convenient suggestion would be  
11 to do it next Tuesday because we have the --

12 JUDGE MORAN: I won't be here.

13 MR. MACBRIDE: When will you be here?

14 JUDGE MORAN: I'm coming back -- I have to go  
15 to a conference. I'll be coming back the -- the  
16 evening of the 15th.

17 MR. MACBRIDE: Okay. Well, when are you  
18 leaving?

19 JUDGE MORAN: I'm leaving Sunday.

20 MR. MACBRIDE: Yeah, I think a lot of parties  
21 would be interested. I guess --

22 MR. CHORZEMPA: Everybody should be here,



1     though.

2           MR. MACBRIDE:   There should be adequate notice  
3     for those people who want to be here in person to be  
4     here.   It would seem -- this Friday would be -- well,  
5     too short for them.   It could be this Friday or I  
6     guess alternatively I would suggest next Friday.

7           MR. ORTLIEB:    Could I --

8           MR. MACBRIDE:    And we can proceed with, you  
9     know, our other negotiations, obviously.

10          JUDGE MORAN:    Right.   Right.   Still hold your  
11     collaboratives on the 14th and on the 16th.

12          MR. ORTLIEB:    Your Honor, if I could just  
13     explore and get a little more substance on what the  
14     scope of the settlement conferences would be?

15          JUDGE MORAN:    Okay.   Yeah.   I would certainly  
16     need that.

17          MR. ORTLIEB:    Before we talk about dates, I  
18     don't fully understand what the --

19          MR. MACBRIDE:    I don't think it's appropriate  
20     to talk about the specifics, but we have a  
21     stipulation that would -- a number of CLECs and SBC  
22     have been negotiating.   It's gone through several

1 drafts. I think there are still a few remaining  
2 issues and the end result of that stipulation would  
3 be to essentially create a different proceeding in  
4 which all TRO and TRRO issues remaining after our  
5 negotiations would be litigated in an arbitration  
6 style 215 format, which as you know all of the CLECs  
7 have expressed previously on the appropriate form to  
8 litigate these issues. So, I would propose that  
9 we -- you know, we -- we bring in the stipulation in  
10 the state it is and we attempt to negotiate the  
11 remaining issues with you presiding.

12 JUDGE MORAN: Okay. How about this: How about  
13 we schedule a conference -- a settlement conference  
14 for next Friday?

15 MR. MACBRIDE: The 17th?

16 MR. ORTLIEB: Day after tomorrow?

17 JUDGE MORAN: Pardon me?

18 MR. ORTLIEB: Is that Friday the --

19 MR. MACBRIDE: The 10th or the 17th.

20 MS. HAMILL: A week from...

21 MR. ORTLIEB: Your Honor, could I ask for a  
22 short break --

1 JUDGE MORAN: Sure. Absolutely.

2 MR. ORTLIEB: -- just to discuss this specific  
3 proposal.

4 JUDGE MORAN: Absolutely.

5 MR. ORTLIEB: Thank you.

6 JUDGE MORAN: You guys talk and call me back.

7 (Recess taken.)

8 JUDGE MORAN: Okay. Are you ready to go back  
9 on the record?

10 MR. ORTLIEB: Yes, your Honor. And thank you  
11 for that brief recess.

12 JUDGE MORAN: Oh, sure.

13 MR. ORTLIEB: I do want to address  
14 Mr. MacBride's idea of settlement conference in just  
15 a moment; but if I may, he raised a couple issues in  
16 response to our request to establish a schedule and I  
17 just want to respond to those if I could. His first  
18 point was that the 10/21 date established by the  
19 Commission applies only to the seven CLECs that are  
20 parties to those complaints. As a technical matter,  
21 the order does apply only to seven CLECs; but as a  
22 practical matter, there's no practical reason to have

1 a proceeding only for seven CLECs when every CLEC in  
2 Illinois is subject to a change of law notice from  
3 SBC Illinois and must amend its agreement to conform  
4 to these new changes in federal law. I don't think  
5 if the Commission were presented with that question  
6 with respect to all other CLECs, that they would come  
7 up with any deadline different than 10/21. So, I  
8 don't think it's practical to proceed only with  
9 respect to seven CLECs since all the CLECs minus two  
10 are in your proceeding. This is the right docket to  
11 do it in.

12 If I could make -- the point was made  
13 that the complaint case deals only with TRRO and the  
14 10/21 directive applies only to the remand order and  
15 not to the TRO. Again, I think that's a distinction  
16 without a difference. The recognition is that  
17 federal law has changed. The fact that there were  
18 two orders, I think, is beside the point. The  
19 amendments that I see need to be amended to reflect  
20 current federal law, that includes TRO and includes  
21 the TRRO. And there's no reason for the Commission  
22 to waste its resources having two separate

1 proceedings to bifurcate based on that -- the  
2 technicality that the FCC happened to address this in  
3 two separate orders.

4 And, finally, as to the factual  
5 defenses, the -- and I know you're familiar with this  
6 because this was the subject of the motion to  
7 dismiss -- the idea has SBC appropriately initiated  
8 the change of law provisions in the agreement and the  
9 dispute resolution provisions. I think you addressed  
10 in your motion to dismiss that that would be a matter  
11 to be addressed in the hearing. I just wanted to  
12 point out that the Commission's ruling in the  
13 complaint cases -- that the 10/21 deadline -- that it  
14 wants to see these amendments done by 10/21, I think,  
15 over shadows any question of -- of factual defenses  
16 as it relates to change in law because the Commission  
17 is saying -- as commissions have elsewhere, as in  
18 Michigan -- that what is important is that the  
19 amendments get -- get done so that the ICH reflect  
20 federal law.

21 Now, I would also add significantly that  
22 the collaboratives we've engaged in must be

1     interpreted as nothing other than satisfaction of any  
2     negotiation requirement or any notification  
3     requirement for change of law dispute resolution.  
4     The parties have -- have, you know, negotiated  
5     intensively in Michigan. Those negotiations are  
6     being importing here and being built upon, so -- so  
7     everyone who has wanted to negotiate with SBC  
8     Illinois has had a full, fair opportunity to do that.  
9     So in that light, I don't believe that these alleged  
10    factual defenses are going to play that big of a role  
11    in the proceedings as it goes forward.

12                   So, for all those reasons, we would  
13    still urge your Honor to establish a schedule in this  
14    docket. But having said all that, with respect to  
15    the settlement conference that Mr. MacBride proposed,  
16    we are prepared to engage in that. We would be  
17    prepared to engage in that as early as this afternoon  
18    or later this morning, whenever it might be  
19    convenient for your Honor and the rest the parties.  
20    If there are scheduling issues that take us into next  
21    week, we will take the first available date. And --

22                   MR. MACBRIDE: Judge, I'd like to respond to

1 Mr. Ortlieb's comments, but let me short circuit that  
2 if I don't have to -- let me suggest this: Since you  
3 sort of indicated the 17th is your -- really your  
4 next viable date --

5 JUDGE MORAN: It is.

6 MR. MACBRIDE: -- I think it would be premature  
7 to -- to fight over a schedule today. Let me suggest  
8 this: If you set another status for next Friday the  
9 17th --

10 JUDGE MORAN: Okay.

11 MR. MACBRIDE: -- with notice that that will  
12 include a settlement conference, call the case on the  
13 17th, recess the settlement conference. If the  
14 settlement conference, you know, isn't productive,  
15 then we can go back into the hearing and argue over a  
16 schedule at that point.

17 JUDGE MORAN: Okay.

18 MR. KELLY: In the meantime, your Honor -- this  
19 is Hank Kelly --

20 JUDGE MORAN: Well, let me just stop you. What  
21 would be the issues for the settlement conference?

22 MR. MACBRIDE: The issues for the settlement

1 conference is to see if we can agree on a stipulation  
2 for this alternate proceeding in which -- number  
3 one -- everyone would agree -- which we're not  
4 agreeing today -- but in this case, everyone agreed  
5 to resolve the remaining disputed TRO and TRRO issues  
6 in one proceeding and the CLECs basically  
7 would -- you know, would not -- would agree that they  
8 wouldn't present these -- you know, these factual  
9 defenses that they have in this case in that  
10 proceeding. So, it would just be focused on the  
11 actual contract issues for the -- the TRO and TRRO  
12 amendments.

13 JUDGE MORAN: Okay. Then the parties would  
14 each or together or jointly set out an agenda for me  
15 for the settlement conference?

16 MR. MACBRIDE: We could, I think, is my  
17 suggestion. It's subject to SBC's  
18 comment -- obviously is -- we do have a stipulation  
19 that it's a certain point of negotiate. There are  
20 disputed issues. There's -- a red line exists that  
21 shows disputed language that could be circulated.  
22 We'd be able to see the points of dispute. I might



1 suggest that in your ruling, you know, you advise all  
2 parties who want to participate in this, that they  
3 need to send any additional comments, you know, by,  
4 say, next Monday or next Tuesday, something like  
5 that, so all potential issues about the stipulation  
6 are on the table. And then I think -- I think we can  
7 create an issue as to the stipulation. There's  
8 probably a handful of issues, but we can set that out  
9 separately; but they'd -- they'd also readily  
10 apparent in -- when you look at the red line  
11 document.

12 JUDGE MORAN: Well, I'm just going to send a  
13 notice as to the status and that it will include a  
14 settlement conference and I would ask the parties to,  
15 you know, discuss bringing any new matters to the  
16 table and work it all out among yourselves. Okay? I  
17 don't want to get involved in that.

18 MR. ORTLIEB: Could we do this: Mr. MacBride,  
19 could we do this, if your Honor would permit it --

20 JUDGE MORAN: And one more thing. When we have  
21 that -- that settlement conference, I was thinking  
22 all along how I can get people to better inform me as

1 to that other complaint case --

2 MR. ORTLIEB: Uh-huh.

3 JUDGE MORAN: -- and how it works together with  
4 this proceeding or how it might be consolidated or  
5 something. I would like you to bring something to me  
6 at that settlement conference.

7 MR. MACBRIDE: You're referring to  
8 Judge Clifford's case?

9 JUDGE MORAN: Yes. Okay. And I'm sorry,  
10 Mr. Kelly, I short-changed you.

11 MR. KELLY: My only comment was going to be  
12 that in the meantime, I think the parties should  
13 still be encouraged to have direct discussions with  
14 SBC on the terms of that stipulation so as to  
15 hopefully avoid settlement conference with you on  
16 Friday the 17th.

17 JUDGE MORAN: Absolutely. That has always been  
18 a driving force for me -- that the parties work out  
19 amongst themselves as much as can be done.

20 MR. ORTLIEB: And, your Honor, the only thing I  
21 was going to ask is -- to Mr. MacBride's point, I  
22 believe. You -- if I'm following this correctly,

1     you're not going to instruct everyone to make  
2     comments on the -- on the proposed stipulation today,  
3     but -- and you asked us to work that out among  
4     ourselves?

5             JUDGE MORAN:   Yeah.

6             MR. ORTLIEB:   Is it all right if we -- if I  
7     could get together with Mr. MacBride and , you know,  
8     make a request that if there are comments on the  
9     proposed stipulation, that those -- that the parties  
10    listed make them by the end of the week?

11            MR. MACBRIDE:   I think the parties certainly in  
12    the room have provided their comments that SBC  
13    has -- you know, the parties represented here in  
14    person has there positions and language on the  
15    stipulation -- but in fairness to Mr. Ortlieb,  
16    he's -- you know, there's a hundred parties in the  
17    case and a much smaller group of those parties have  
18    participated in a prior active negotiations (sic)  
19    over the stipulation that he's -- I mean, this is why  
20    I made my suggestion earlier.   It would be useful to  
21    have something that sort of puts, you know, other  
22    parties on notice that if they have comments on this

1 document, they ought to submit them.

2 MR. CHORZEMPA: I think -- I think it has to be  
3 written comments on the stipulation itself,  
4 either -- I think it's a mark-up red line is what  
5 we're looking for from parties.

6 MS. HAMILL: Of the stipulation SBC proposed?

7 MR. CHORZEMPA: Yes.

8 MR. MACBRIDE: Yes.

9 JUDGE MORAN: So --

10 MR. HUDSON: This is Paul Hudson talking --

11 JUDGE MORAN: Excuse me. Comments or red line  
12 changes to the stipulation as it exists on -- you  
13 give me the date.

14 MR. CHORZEMPA: Yesterday. 6/7.

15 MS. HAMILL: June 7th.

16 MS. GLOVER: Which version?

17 MR. ORTLIEB: The last. It would be the --

18 JUDGE MORAN: Okay. Then why don't you guys  
19 work on the kind of language you would like to see in  
20 this notice that I go out -- that I will send out.  
21 You want a status hearing with a settlement  
22 conference forewarning parties that any comments or

1 red line changes to the stipulation as it exists on  
2 6/7 should be provided to who?

3 MR. CHORZEMPA: To all parties.

4 MR. MACBRIDE: To all parties.

5 MS. HAMILL: On the service list of 04-0606  
6 by -- the 14th, Mark?

7 MR. ORTLIEB: Let me take a look.

8 MS. HAMILL: Next Tuesday.

9 MR. ORTLIEB: 13th ?

10 MS. HAMILL: 13th. If that goes out today,  
11 that gives the parties Thursday, Friday and Monday.  
12 That should be good.

13 MR. CHORZEMPA: It's a short stipulation.

14 MS. HAMILL: It's only like five pages.

15 JUDGE MORAN: By close of business on June 13th  
16 you're saying?

17 MS. HAMILL: Yes.

18 MR. ORTLIEB: Uh-huh.

19 JUDGE MORAN: Okay.

20 MS. GLOVER: I have a point of clarification,  
21 your Honor. You'd like something before you at the  
22 settlement conference regarding the complaint cases

1     and the timelines referenced by Mr. Ortlieb? Do you  
2     have a particular format in mind?

3             JUDGE MORAN: I -- no format because this is --  
4     because it's coming into the settlement -- the  
5     settlement conference, per se, I don't think it's a  
6     filing.

7             MS. GLOVER: Okay.

8             JUDGE MORAN: And that's exactly what I want.  
9     I'm looking for a paper like that so that you guys  
10    can discuss it and inform me and we can talk about it  
11    without it being any type of official document.

12            MS. GLOVER: I understand. Thank you.

13            JUDGE MORAN: Okay. Give me a minute to work  
14    on this notice. Can you guys stay here?

15            MR. ORTLIEB: Sure.

16            JUDGE MORAN: And then you can propose any  
17    changes or we can clarify it. It's like in the  
18    circuit courts. You prepare the ruling for the judge  
19    and then the judge just signs it.

20                                (Recess taken.)

21            MR. MACBRIDE: For the parties on the phone,  
22    can you read what you've drafted?

1 JUDGE MORAN: Oh, for the parties on the  
2 telephone -- Hello?

3 MR. HUDSON: Hello.

4 JUDGE MORAN: Okay. This is the notice that  
5 I'm proposing to send out. We're off the record on  
6 this.

7 (Discussion off the record.)

8 JUDGE MORAN: Mr. MacBride has proposed a -- a  
9 notice to be sent out and that notice will go out  
10 today to all the parties.

11 And with that, do we have anything else  
12 to discuss?

13 MR. MACBRIDE: (Nodding.)

14 JUDGE MORAN: Hearing nothing, we will next  
15 meet on June 17th at 10:00 a.m. This matter is  
16 continued until that date.

17 (Whereupon the above-entitled  
18 matter was continued to  
19 June 17, 2005 at 10:00 a.m.

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21

22